

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP No. 26794 of 2016

Date of Decision: 22.12.2016

Suresh Kumar and others

....Petitioners.

Versus

State of Haryana and others

...Respondents.

**CORAM:- HON'BLE MR. JUSTICE AJAY KUMAR MITTAL.
HON'BLE MR. JUSTICE RAMENDRA JAIN.**

PRESENT: Mr. Hardeep Singh, Advocate for
Mr. Vikram Singh, Advocate for the petitioners.

AJAY KUMAR MITTAL, J.

1. Through the instant petition filed under Articles 226/227 of the Constitution of India, the petitioners have prayed for issuance of a writ in the nature of certiorari for quashing the notifications dated 17.4.1989 (Annexure P-1) issued under Section 4 of the Land Acquisition Act, 1894 (in short “the Act”) and dated 16.4.1990 (Annexure P-2) under Section 6 of the Act vide which their land has been acquired. Further, a writ of mandamus has been sought directing the respondents to release the land of the petitioners in view of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as “2013 Act”) as they are still in physical possession thereof and are ready to deposit the amount of compensation partly received by them.

2. Government of Haryana vide notification dated 17.4.1989 (Annexure P-1) issued under Section 4 of the Act followed by notification dated 16.4.1990 (Annexure P-2) under Section 6 of the Act, acquired the land including the land of the petitioners for the development of residential and industrial area. The award was passed on 5.7.1990. The petitioners moved a representation dated 16.5.2016 (Annexure P-3) along with photographs (Annexure P-4) to respondent No.1 for release of the land in view of Section 24(2) of the 2013 Act, but to no effect. The petitioners are still in physical possession of the land in question. According to the petitioners, the acquisition proceedings have lapsed in view of Section 24(2) of the 2013 Act as they are still in physical possession of the land in question and are ready to deposit the amount of compensation partly received by them. Hence, the present writ petition.

3. Learned counsel for the petitioners submitted that the petitioners are in physical possession of the land in dispute. They are ready to deposit the amount of compensation partly received by them. It was further submitted that they have moved a representation dated 16.5.2016 (Annexure P-3) to respondent No.1 for the release of their land from acquisition in view of Section 24(2) of the 2013 Act, but no response has been received till date. He, however, prayed that liberty be granted to the petitioners to file a detailed and comprehensive representation before the appropriate authority by incorporating the grievance as raised in the present writ petition and direction be issued to the authority concerned to decide the representation expeditiously in a time bound manner in accordance with law.

4. After hearing learned counsel for the petitioners, perusing the

present petition and without expressing any opinion on the merits of the case, we dispose of the present petition by granting liberty to the petitioners to file a detailed and comprehensive representation raising all the pleas as raised in the present writ petition before the appropriate authority. It is directed that in the event of a representation being filed by the petitioners within a period of two months from today, the same shall be decided in accordance with law by passing a speaking order and after affording an opportunity of hearing to them within a period of four months from the date of receipt of representation. The petitioners shall be entitled to lead any evidence to substantiate their claim before the concerned authority. Till the matter is decided by the said authority, status quo shall be maintained by the parties. It is, however, made clear that in case no such representation is filed within the stipulated period as noticed above, the interim order shall cease to operate, thereafter.

(AJAY KUMAR MITTAL)
JUDGE

December 22, 2016
gbs

(RAMENDRA JAIN)
JUDGE

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No